

State of South Dakota

SEVENTY-SIXTH SESSION
LEGISLATIVE ASSEMBLY, 2001

376E0048

SENATE ENGROSSED NO. **SB 9** - 01/29/2001

Introduced by: Senators Vitter, Diedrich (Elmer), Drake, and Symens and Representatives Fryslie, Hanson (Gary), Konold, and Lintz at the request of the Interim Agriculture and Natural Resources Committee

1 FOR AN ACT ENTITLED, An Act to revise certain provisions pertaining to landowner liability
2 for injuries sustained on flooded land.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 20-9-11 be amended to read as follows:

5 20-9-11. ~~No~~ Notwithstanding the provisions of subdivision 20-9-16(1), no cause of action
6 may arise against the owner, tenant, or lessee of any real estate for any injury to any person or
7 death resulting therefrom or damage to property of such person when such person is on the
8 flooded lands of the owner, tenant, or lessee, with or without permission, ~~irrespective of the~~
9 ~~method or means by which the trespass occurred~~, unless such death or injuries were caused by
10 the ~~gross negligence or~~ willful and wanton misconduct of the owner, tenant or lessee.

11 This section does not affect the doctrine of attractive nuisance or other legal doctrines
12 relating to the liability arising from artificial conditions highly dangerous to children. This section
13 does not preempt the standard of liability which a landowner owes to a person who has paid a
14 charge to enter the land pursuant to subdivision 20-9-16(2).